



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

SEP 30 1999

**SUBJECT:** Request for a CERCLA Removal Action at the  
Nelson Galvanizing Site, Long Island City,  
Queens County, New York **ACTION MEMORANDUM**

**FROM:** Jeff M. Bechtel, On-Scene Coordinator  
Response and Prevention Branch

*Bruce Sprague for*

**TO:** Richard L. Caspe, Director  
Emergency and Remedial Response Division

**Thru:** Bruce Sprague, Chief  
Response and Prevention Branch

*Bruce Sprague*

**Site ID No.:** 6Z

**I. PURPOSE**

The purpose of this Action Memorandum is to request authorization to conduct a time-critical removal action described herein at the Nelson Galvanizing Site (Site), 11-02 Broadway, Long Island City, Queens County, New York.

On June 16, 1999, the Emergency and Remedial Response Division received a written request from the Division of Enforcement and Compliance Assistance (DECA) regarding hazardous materials at the Nelson Galvanizing Site, in Long Island City, New York asking that a removal action be considered for this Site.

On June 30, 1999, EPA conducted a removal assessment and determined that the Site met the criteria for the performance of a removal action under the provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) as amended by 42 U.S.C. §§9601 et seq. The Site consists of an inactive galvanizing facility.

This Action Memorandum, if approved, will authorize a total project ceiling of \$810,000, with a mitigation ceiling of \$450,000. The funds are necessary to provide for site security, sampling, analysis, soil excavation and disposal of hazardous substances present at this Site.

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This Site is not on the National Priorities List (NPL) and there are no nationally significant or precedent-setting issues associated with this Site.

## **II. SITE CONDITIONS AND BACKGROUND**

### **A. Site Description**

#### **1. Removal Site Evaluation**

The Site consists of one two-story building located in an area of mixed commercial, residential and light industry. The building is constructed of steel beams, covered with corrugated sheet metal, and is about 60 feet high. The facility is in disrepair, with walls and ceilings falling down. A commercial car leasing business is adjacent to the Site. Both businesses share a common interior wall. The facility has no security. There has been an industrial business on the Site since about 1849.

From 1967 until 1994, Nelson Galvanizing, Inc. ("NG") operated a galvanizing business at the facility. EPA believes that the facility is owned by Nelson Foundry, Inc. ("NF"). John Sweeney ("Sweeney") operated NG's business and is also believed by EPA to own both NG and NF.

The EPA removal assessment on June 30, 1999, revealed that there is stored at the Site in excess of one hundred 55-gallon drums of spent acids and caustic, along with approximately thirty smaller containers. These drums and containers, many of which are open-top, are stored without regard to compatibility. The inspection revealed that some drums of acid have a pH of less than two. In addition to the drummed acids and caustic, there are three large open-top tanks, one holding approximately 40 cubic yards of sulfuric acid sludge, one tank of sodium hydroxide with approximately 900 gallons of liquid and 1800 gallons of sludge, and one tank of zinc ammonium chloride holding approximately 900 gallons. In addition, it was observed that the business had operated on a dirt floor. Only the entrance way and approximately 70 feet into the premises is covered with concrete. Consequently, it is believed that over the years of operation, the soil has become stained and saturated from numerous chemical spills and leaks.

#### **2. Physical Location**

The Site is located in Long Island City, New York. There are single family houses in the immediate area, intermixed with commercial businesses, as well as light manufacturing. Several thousand residents and individuals live and work within ¼ mile of the Site. There is public housing for approximately 8,000 people within ¼ mile of the facility. The Site is within ¼ mile of

the northern tip of Roosevelt Island, home to approximately 12,000 people. The Site is located within three blocks of the East River, which although not a source of drinking water, is a major ship, barge and recreational waterway.

### 3. Site Characteristics

A metal galvanizing facility was operated at the Site by NG from 1967 to 1994. The operation utilized, among other chemicals, acids, caustic, zinc salt, zinc metal, and fluoride-based zinc flux. This will be the second federal removal action to be conducted at this Site with the first being a responsible party cleanup under a consent order.

Within one-half mile of the Site are residential areas, light industry, commercial properties and major arterials.

### 4. Release or Threatened Release into the Environment of a Hazardous Substance, or Pollutant or Contaminant

The following hazardous substances have been identified at the Site:

<u>Substances Identified</u>	<u>Statutory Source for Designation as a Hazardous Substance</u>
Sulfuric Acid	CWA Section 311(b)(4)
Hydrofluoric Acid	CWA Section 311(b)(4), CAA Section 112, RCRA Section 3001
Sodium Hydroxide	CWA Section 311(b)(4)
Zinc Ammonium Chloride	CWA Section 311(b)(4)
Zinc metal	CWA Section 307(a)

CWA: Clean Water Act

CAA: Clean Air Act

RCRA: Resource Conservation and Recovery Act

These hazardous substances are acutely and chronically toxic and/or corrosive.

The potential health effects from these compounds are identified below:

Potential Health and Toxicological Effects

	Cardiovascular Damage	Respiratory Damage	Dermal Effects
Sulfuric Acid		X	X
Hydrofluoric Acid		X	X
Sodium Hydroxide		X	X
Zinc Ammonium Chloride	X	X	X
Zinc metal		X	X

The environmental effects posed by these materials include the contamination of the soil which has already been documented at the Site, and the potential for migration of the contamination into the East River.

The run-off from rain or firefighting efforts could act as a carrier to transport contaminants from the Site and into the soil, surface water and neighboring properties.

5. NPL Status

At the present time, the Site is not on the NPL and there are no efforts underway to include this Site on the NPL.

B. Other Actions to Date

1. Previous Actions

In March 1991, EPA issued an administrative order on consent (II-CERCLA-10206) ("ACO") to NG, NF and Sweeney, pursuant to which the respondents performed a removal action at the facility. The facility remained in operation while performing the removal action under EPA oversight.

Following the completion of the removal action, EPA Region 2 Division of Enforcement and Compliance Assistance ("DECA") determined that more wastes, including hazardous wastes, accumulated at this facility. In late 1994, EPA and Sweeney entered into a ("RCRA Order") consent order under RCRA requiring Sweeney to remove all solid and liquid wastes and raw materials that had accumulated since the conclusion of the CERCLA removal action. The RCRA Order required that work to be completed by 1995.

New York City Department of Environmental Protection ("NYCDEP")

Industrial Waste Unit ("IWU") conducted inspections of the facility between 1995 and 1996 and determined that the facility was inactive. NYCDEP issued an order requiring certain clean up of the facility. NYCDEP inspections determined that NG had shipped off some material and had dismantled a tank. Subsequently, NYCDEP issued a summons to Sweeney charging violations of NYC criminal law relating to the wastes at the Site.

Sweeney has claimed that neither he nor NG have the financial resources to clean up the wastes at the facility.

## 2. Current Actions

Since 1994, the facility has been closed and no galvanizing has occurred on this Site.

In June 1998, DECA inspected the facility and a sampling inspection was conducted in July 1998, which confirmed the presence of hazardous waste. A RCRA 3007 Information Request Letter was sent to NG on September 24, 1998 requiring a response within thirty day, but no response was received. DECA issued a Notice of Violation ("NOV") on November 6, 1998 which was not delivered because Sweeney refused to accept the letter of transmittal. On December 28, 1998 a second NOV was issued for the following violations: (1) failure to respond to an information request letter; and (2) failure to abide by the requirements of the 1994 RCRA Order. It too was not accepted and was returned to DECA. On December 30, 1998, another RCRA 3007 information request letter requesting information on a particular requirement of the RCRA Order was sent. This letter was also refused and returned. In January 1999, attempts to hand deliver all the above documents were again rebuffed by Sweeney.

In January 1999, EPA DECA again inspected the facility and determined that there were no apparent changes since July 1998.

## C. State and Local Authorities' Roles

### 1. State and Local Actions to Date

New York City Department of Environmental Protection ("NYCDEP") Industrial Waste Unit ("IWU") conducted inspections of the facility between 1995 and 1996 and determined that the facility was inactive. NYCDEP issued an order requiring certain clean up of the facility. NYCDEP inspections determined that NG had shipped off some material and had dismantled a tank. Subsequently, NYCDEP issued a summons to Sweeney charging violations of NYC criminal law relating to the wastes at the Site.

### 2. Potential for Continued State/Local Response

Neither the NYSDEC, NYCDEP, nor the local government have the resources available to do the necessary removal action at the Site. These organizations will act in a supporting role throughout the removal action.

### III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT AND STATUTORY AND REGULATORY AUTHORITIES

#### A. Threats to Public Health or Welfare

The release and threat of further release of hazardous substances present at the Site represent a threat to the public health and welfare as defined by Section 300.415(b)(2) of the National Contingency Plan (NCP), in that there is a high potential for releases to occur resulting in actual or potential exposure to nearby human populations; there are hazardous substances in drums and other containers that may pose a threat of release; there may be high levels of hazardous substances in soils at the Site largely at or near the surface, that may migrate; and the hazardous substances at the facility stored without regard to compatibility may present a threat of fire or explosion. Hazardous substances include substances specifically listed at Table 302.4 of the NCP and other wastes which, due to characteristics of toxicity or corrosivity are also hazardous substances. These include hydrofluoric and sulfuric acid, sodium hydroxide, zinc ammonium chloride and zinc. These materials are considered to be characteristic wastes under RCRA.

It is estimated that approximately 10,000 gallons of corrosive acids and caustic are being stored on-site in open-top drums and in large open-top tanks. In addition, the soil at the Site is contaminated and there is debris also being stored on the Site.

The Site is located at the western edge of a densely populated residential community, and is located amongst numerous other commercial industries that employ many hundreds of workers. In the event of a fire, it is anticipated that firefighters would not be able to avoid contamination from acidic runoff and toxic fumes during firefighting efforts. All runoff produced by firefighting efforts would go directly into the storm sewer and thence directly to the East River. Drums of waste chemicals and piles of debris are stacked in front of access doors, which would severely hamper firefighting efforts in the event of a fire occurring on the premises. There is also a potential for direct contact exposure through acts of vandalism or from trespassers. As the business is no longer in operation, there is direct access to the hazardous chemicals via a number of doorways and holes in the sides of the building, where interior lighting conditions are extremely poor. There are numerous holes and openings in the roof that allow rainwater to enter the premises, washing the

spilled acids and caustic onto the soils of the floor of the Site.

B. Threats to the Environment

There is also a threat of release into the environment and therefore, this Site does meet the criteria for such as described in 300.415(b)(2) of the NCP. There is obvious evidence of leakage of hazardous materials onto the soils of the floor of the Site. When open containers of liquids were tested with pH paper during EPA's preliminary assessments, the test paper indicated pH levels of less than 2, thereby meeting the corrosive characteristic as defined by RCRA. Any spilled acidic material will seep from the facility into the environment via the storm sewer system and through the groundwater. The water table in the area is approximately 8-10 feet below the surface of the ground.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances from the Site, if not addressed by the response action in this Action Memorandum, may present an imminent and substantial endangerment to public health, welfare and the environment.

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed Action Description

The objective of the removal action is to eliminate the threat of exposure through direct human contact caused by a release of the hazardous materials at the Site. EPA will mobilize the Emergency and Rapid Response Services contractor to the Site to complete the following:

- i. Stabilization and securing of vats, sumps, drums and other containers of hazardous materials.
- ii Removal of debris.
- ii. Sampling of vats, sumps and drums.
- iii. Determination of waste characteristics for vats, sumps and drums and subsequent waste consolidation.
- iv. Preparation of waste streams for shipment.
- ii Testing of surficial soils and, if appropriate, removal of contaminated soils from the facility.

- ii Transportation and disposal of all wastes in accordance with EPA's CERCLA Off-Site Disposal Rule.

The selected mode of transportation and method of disposal will be based on the analytical data.

## 2. Contribution to Remedial Performance

The proposed action will contribute effectively to any long-term remedial action with respect to the release or threatened release of hazardous substances. This removal action is consistent with any future long-term remedial action that may be undertaken at the Site.

## 3. Description of Alternative Technologies

Alternative technologies will be considered, so long as they prove to be cost effective and efficient.

## 4. Engineering Evaluation/Cost Analysis

Due to the time-critical nature of this removal action, an EE/CA will not be prepared.

## 5. Applicable or Relevant and Appropriate Requirements (ARARs)

ARARs, within the scope of the project, including RCRA and CERCLA regulations that pertain to the disposal of hazardous wastes, will be met to the extent practicable.

## 6. Project Schedule

The removal action will be initiated pending approval of this Action Memorandum. Based upon previous failures to comply with the RCRA order and the orders from NYCDEP, and based upon statements by Sweeney that he lacks the financial resources to perform the action, it does not appear that the NG, NF or Sweeney would properly or promptly conduct the action nor does it appear that they have the resources to conduct the removal action. Thus it is anticipated that EPA will implement this removal action. Stabilization, over packing, material transfer, staging, segregating, sampling, soil excavation, and backfilling are expected to occur over several months, with final disposal to occur shortly thereafter.

## B. Estimated Costs

### 1. Extramural Costs:

Proposed  
Costs

Regional Allowance Costs:  
(Total clean-up contractor

\$ 450,000



costs, include labor,  
equipment, materials and  
laboratory disposal analysis)

Other Extramural Costs not funded  
from the Regional Allowance:

Total START costs, including multiplier costs:	\$ 100,000
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Subtotal Extramural Costs:	\$ 550,000
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Extramural Costs Contingency: (20% of subtotal, Extramural Costs)	\$ 110,000
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TOTAL EXTRAMURAL COSTS: (Rounded to nearest \$1,000)	\$ 660,000
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2. Intramural Costs:

Intramural Direct Costs:	\$ 50,000
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Intramural Indirect Costs:	\$ 100,000
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TOTAL INTRAMURAL COSTS:	\$ 150,000
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<u>TOTAL REMOVAL PROJECT CEILING:</u>	\$ 810,000
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**VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED  
OR NOT TAKEN**

Delayed action or no action could result in the release of hazardous substances into the environment, thereby exposing the nearby residents, employees and passers by of the surrounding area to hazardous substances and causing further contamination of the soil and the environment.

**VII. OUTSTANDING POLICY ISSUES**

None.

**VIII. ENFORCEMENT**

Based upon previous failures to comply with the RCRA order and the orders from NYCDEP, and based upon statements by Sweeney that he lacks the financial resources to perform the action, it does not appear that the NG, NF or Sweeney would properly or promptly conduct the action nor does it appear that they have the

resources to conduct the removal action. Due to the nature and amount of hazardous wastes at this Site, a fund-lead time-critical removal action is necessary.

It is anticipated that EPA will be granted consensual access to the Site to conduct a removal action. Efforts will be made to identify any viable PRPs to assume responsibility for the cost of the clean-up. The On-Scene Coordinator will work with the Removal Action Branch, the Office of Regional Counsel and the NYCDEP in an attempt to locate viable PRPs to recover clean-up costs.

We presently anticipate that EPA will send notice of potential responsibility to NG, NF and Sweeney and will seek to determine, by CERCLA Section 104(e) whether any of those responsible parties have financial resources to pay for the response action. Also, we will review the ownership of the property and determine whether the filing of a CERCLA lien under Section 107(1) of CERCLA would be appropriate. We will also seek to determine whether there are any other potentially responsible parties for this action. If there are financially viable potentially responsible parties, we will recommend the initiation of a cost recovery action under CERCLA Section 107(a).

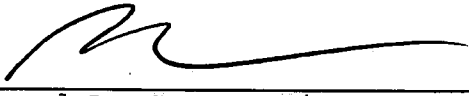
#### **IX. RECOMMENDATION**

This decision document represents authorization for the selected Removal Action at the Nelson Galvanizing Site, Long Island City, Queens County, New York, developed in accordance with CERCLA as amended and not inconsistent with the NCP. This decision is based on the Administrative Record for the Site. Conditions at the Site meet the NCP Section 300.415(b)(2) criteria for a Removal Action.

This Action Memorandum, if approved, will authorize a total project ceiling of \$810,000, with a mitigation ceiling of \$450,000. These estimated costs for this project are within the FY-99 and FY-2000 Regional Advice of Allowances.

Please indicate your approval of the authorization of funding for the Nelson Galvanizing Site as per the current Regional redelegation of authority, by signing below.

Approved:

  
Richard L. Caspe, Director  
Emergency and Remedial Response Division

Date:

9/30/99

Disapproved:

Richard L. Caspe, Director  
Emergency and Remedial Response Division

Date:

cc: (after approval is obtained)

R. Caspe, 2ERRD  
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